

**MILLER & CHEVALIER**

CHARTERED

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January 15, 2002

**VIA E-MAIL AND FIRST CLASS MAIL**

Gloria Blue  
Executive Secretary  
TPSC  
Office of the United States Trade Representative  
600 17th Street, NW  
Washington, DC 20508

Re: Section 201 Proceeding on Certain Steel Products; response of Tube  
Products of India to written comments on what action, if any, the President  
should take under section 203(a)

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Dear Ms. Blue:

Set forth below are the responses of Tube Products of India ("TPI"), an Indian producer of steel tubes, to written comments submitted by several parties concerning what action, if any, the President should take in the captioned proceeding.

**A. The Domestic Industry Has Not Introduced Evidence Supporting Opposition to the Exclusion of Premium DOM and Boiler Tubes:**

TPI wishes to draw the TPSC's attention to filings by TPI and other producers of drawn over mandrel ("DOM") and boiler tubes seeking the exclusion of such tubing from the scope of any action by the President, as well as the conspicuous lack of any evidence submitted by the domestic tubing industry to support any opposition to such exclusions. TPI's previous filings and filings by Rothrist (Switzerland), Inc., Katakura Steel Tube and the European Steel Tube

Association/Mannesmann Prazisrohr GmbH ("ESTA"), show that domestic steel tube producers have introduced no evidence demonstrating that they currently manufacture high-quality DOM or boiler tubes to meet the needs of domestic consumers, nor that they intend to increase their manufacturing capacity significantly.<sup>1</sup> The lack of significant U.S. production of such products is ample justification to exclude a foreign product from any safeguards action. Excluding DOM and boiler tube products is completely justified under section 203, would do no harm to the domestic tube industry and would assist domestic manufacturers, particularly in the automotive sector, who are the primary consumers of such premium products.

TPI also is unaware of any evidence produced to the ITC or to the TPSC by U.S. tube manufacturers that identify premium tubular products, such as TPI's DOM and boiler tubes, as a source of actual or threatened injury to the domestic industry. The domestic manufacturers have focused instead on the impact of lower-priced imports of commodity tubes on domestic producers.<sup>2</sup> Lumping premium tubes, such as those made by TPI, Rothrist, Katakura and EPTA, together with low-quality commodity tubing can only give the ITC and the TPSC a skewed impression of the effect of imports of premium tubes on the domestic steel tube industry.

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<sup>1</sup> See Exclusion Request, filed Nov. 13, 2001 and Comments, filed Jan. 5, 2002, on behalf of Rothrist (Switzerland), Inc., 2002 (requesting exclusion for high-quality DOM tubes used in automotive applications); Exclusion Request on behalf of Katakura Steel Tube Co., Ltd., filed Nov. 13, 2001 (seeking exclusion of high-quality DOM tubes used in rod lift pumps); Comments of ESTA/Mannesmann, filed Jan. 4, 2002, seeking exclusion of high-quality DOM tubes used in automotive and for cold-drawn profile tubing).

<sup>2</sup> See e.g. Comments on behalf of The Committee on Pipe and Tube Imports, et. al., filed Jan. 4, 2002, at 6-7 (section entitled "The Unprecedented Surge of Low-Priced Imports Has Had a Devastating Impact on Domestic Producers").

**B. The President Must Consider Premium DOM and Boiler Tubes Separately:**

As set forth in TPI's previous comments to the TPSC, filed on December 5, 2001 and December 19, 2001, TPI's DOM and boiler tubes are specialized products that require a high degree of technology and tube-making skill, and there are a limited number of producers of such tubes worldwide. They constitute a niche within the overall market due to their high price, stringent quality specifications and unique uses. Previous filings by TPI, Rothrist, Katakura and EPTA conclusively demonstrate that high-quality DOM and boiler tubes have not contributed to any supposed injury or threat of injury to the domestic tube industry.

While grouping all types of non-OCTG tubes together may have facilitated the ITC's admittedly difficult task of analyzing the entire tubular steel market within the tight time constraints of its investigation schedule, it does not reflect the realities of the market, and predictably results in an inaccurate picture of the impact of imports of specialty tubular products on the domestic steel tube industry. The TPSC and the President should not fall prey to administrative convenience by following the ITC's approach and treating all non-OCTG tubes alike. The President should, instead, exclude the tubes identified in the abovementioned exclusion requests, because there has been no evidence presented demonstrating that such tubes have contributed to any supposed injury or threat of injury to the domestic industry. To do otherwise would inflict collateral damage on foreign tube manufacturers, who have engaged in fair trade with the United States, and their domestic consumers, for whom such products fulfill vital needs, including downstream exports of products incorporating such tubes.

The aforementioned filings by TPI, Rothrist, Katakura and ESTA also demonstrate the low volume of imports of premium DOM and boiler tubes. The filings all indicate that the majority of the specialty products identified therein are imported into the United States in small quantities and represent a negligible portion of the total import volume of non-OCTG tubes. Such products are frequently ordered to customer specifications and not usually sold as “off-the-shelf” commodities. As a result, premium products have had a minimal impact on import volumes and domestic pricing, and the President would be justified in excluding such products from any safeguards measures on that basis alone.

**C. Indian Non-OCTG Tubes Must Be Excluded Pursuant to Article 9.1 of the WTO Safeguards Agreement:**

The Indian Embassy’s comments note the obligation of the United States not to impose safeguards on certain Indian flat-rolled products pursuant to Article 9.1 of the WTO Safeguards Agreement because (1) India is a developing country member of the WTO, (2) such exports account for less than 3% of imports into the United States and (3) developing countries collectively account for less than 9% of total imports into the United States.<sup>3</sup> Data submitted to the TPSC indicate that imports of Indian non-OCTG tubes also meet the criteria of Article 9.1. Imports of Indian non-OCTG tubes into the United States account for approximately 1.17% of the total volume of imports of such products and developing countries collectively account for 8.74% of the total imports of non-OCTG tubes into the United States.<sup>4</sup> These statistics dictate

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<sup>3</sup> See Comments of the Government of India, Jan. 4, 2002 at 3.

<sup>4</sup> See Comment on Potential Action Under Section 203, etc., on behalf of C.A. Condovan, Jan. 4, 2002, Attachments 1 and 2.

that the President must exclude Indian non-OCTG tubes from any U.S. safeguards action pursuant to Article 9.1 of the WTO Safeguards Agreement.

**D. Imposing Safeguards Measures on Premium DOM Tubes Will Harm the Domestic Automobile Industry:**

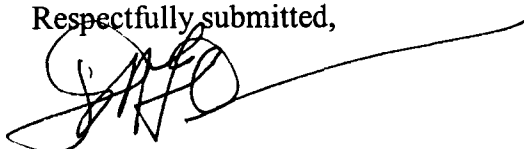
TPI echoes the concerns of Rothrist, Katakura and ESTA that the imposition of trade remedies on high-quality DOM tubes would have a negative effect on the U.S. auto industry, which is already reeling as a result of the recent economic downturn. Like tubes made by Rothrist, Katakura and members of ESTA, many of TPI's specialty DOM tubes are used by domestic vehicle manufacturers in demanding applications, such as engine parts, drive shafts and hydraulic systems, for which domestic tube manufacturers have been unable or unwilling to provide acceptable quality tubes in quantities required by U.S. automakers. Imported tubes, therefore, are a key link in the domestic auto industry supply chain. In the wake of recent U.S. auto industry, including the recent announcement of U.S. plant closings by Ford, now is not the time to artificially drive up the prices of key automotive components by needlessly imposing trade sanctions on DOM tubes.

**E. Conclusion:**

TPI supports the exclusion of all types of high-quality DOM and boiler tubes from the scope of any safeguards action taken by the President. No evidence has been presented to indicate that such tubes have contributed to injuring or threatening injury to the domestic steel industry. Such products are imported in limited quantities and at a premium price, and have not affected import volume or domestic tube prices. Imposing trade remedies on them would not benefit the domestic tube industry and would handicap domestic manufacturers who rely on

premium imported DOM and boiler tubes. The U.S. automotive industry, already under extreme economic pressure, is a major consumer of premium DOM products. Finally, all Indian non-OCTG tubes should be excluded from the scope of any proposed remedy pursuant to the obligations of the United States under Article 9.1 of the WTO Safeguards Agreement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'DMFO', with a long horizontal flourish extending to the right.

Daniel M. Fisher-Owens  
Matthew N. Nolan  
MILLER & CHEVALIER, CHTD.

Counsel for Tube Products of India